

AG Contract No. KR99 0275TRN
ADOT ECS File No. JPA 99-20
Project No. BR-PRS-0(13)P
TRACS No. S B372 OlC
Project: Willow Creek Bridge

INTERGOVERNMENTAL AGREEMENT
BETWEEN
THE DEPARTMENT OF TRANSPORTATION
AND
THE CITY OF PRESCOTT, ARIZONA

THIS AGREEMENT is entered into 25 March, 1999,
pursuant to the provisions of Arizona Revised Statutes Section 11-951
through 11-954, as amended, between the STATE OF ARIZONA, acting by
and through its DEPARTMENT OF TRANSPORTATION, (the "State"), and the
CITY OF PRESCOTT, acting by and through its MAYOR and CITY COUNCIL
(the "City").

I. RECITALS

1. The State is empowered by Arizona Revised Statutes Section 28-401 and 28-334 to enter into this agreement and has by resolution, a copy of which is attached hereto and made a part hereof, resolved to enter into this agreement and has delegated to the undersigned the authority to execute this agreement on behalf of the State.

2. The City is empowered by Arizona Revised Statutes Section 11-251 to enter into this agreement and has by resolution, a copy of which is attached hereto and made a part hereof, resolved to enter into this agreement and has authorized the undersigned to execute this agreement on behalf of the City.

3. Congress has authorized appropriations for, but not limited to, the design and construction of streets and primary, feeder and farm-to-market roads; the replacement of bridges; the elimination of roadside obstacles; and the application of pavement markings.

4. Such project within the boundary of the City has been selected by the City; the field survey of the project has been completed; and the plans, estimates and specifications have been prepared and, as required, submitted to the Federal Highway Administration ("FHWA") for approval.

NO. 23062
Filed with the Secretary of State
Date Filed: 03/25/99

Petey Bayless
Secretary of State

By Wick D. Hoeneveld

5. The only interest of the State in this project is in the acquisition of federal funds for the use and benefit of the City by reason of federal law and regulations under which funds for the project are authorized to be expended.

6. The work embraced by this agreement and the estimated cost is as follows: Bridge Replacement.

Estimated Project Cost (includes 10% CE Cost)	\$1,943,277.00
5% Surcharge	\$ 87,932.00
Federal Aid Funds @80%	\$1,624,967.00
Prescott City funds @20%	\$ 406,242.00*

This includes a 5% surcharge on total project cost per Local Government Engineer memo dated 1 October 1991.

THEREFORE, in consideration of the mutual agreements expressed herein, it is agreed as follows:

II. SCOPE OF WORK

1. The State shall submit a program containing the aforementioned project to FHWA with the recommendation that it be approved for construction.

a. If such project is approved for construction by FHWA and the funds are available for construction of the project, the State with the aid and consent of FHWA and the City will proceed to bid the project. The City will construct the project; such project to be performed, completed, accepted and paid for in accordance with the approved plans and specifications. The State will enter into a Project Agreement with FHWA covering the work embraced in said construction and will request the maximum federal funds available.

b. Should unforeseen conditions or circumstances increase the cost of said work required by a change in the extent or scope of the work called for in this agreement, the City shall be obligated to incur any expenditure in excess.

2. Prior to construction, the City shall set aside sufficient funds in the amount determined to be necessary to match federal funds.

3. The City shall acquire, without cost to the State, any necessary right-of-way and hereby certifies that all necessary rights-of-way have been or will be acquired.

4. The City shall remove from the proposed right-of-way all obstructions or unauthorized encroachments of whatever nature, either above or below the surface of the roadway, and hereby certifies that all obstructions and encroachments have been removed therefrom, prior to the start of construction.

5. The City shall not permit or allow any encroachments, except those authorized by permit, upon, or private use of, the right of way. In the event of any unauthorized encroachment or improper use, the City shall take all necessary steps to remove or prevent any such encroachment or use; failing in which the State shall have the right to proceed with the removal or prevention thereof, the cost of such removal or prevention to be borne by the City.

6. Upon completion of construction, the City shall provide maintenance unless assumed by another governmental entity.

7. The City will provide personnel to administer and supervise construction. All construction project change orders are to be copied to the State.

8. The City will complete the project in accordance with approved plans and specifications and the requirements of the relevant State and federal statutes, rules, or regulations. In the event the City fails to comply with the plans, specifications or any relevant State or federal statutes, rules, or regulations, the City shall hold the State harmless from any claims or costs incurred by the State as a result of the City's failure to comply.

9. State employees may perform any inspections of the project or audit any books or records of the City in order for the State to assure itself that the monies on the project have been spent and the project completed in accordance with the plans and specifications, statutes, rules, and regulations of the State and federal government.

III. MISCELLANEOUS PROVISIONS

1. The State assumes no financial obligation or liability under this agreement. The City assumes full responsibility for the design, plans and specifications, reports, the engineering in connection therewith, and the construction of the improvements contemplated, cost over-runs and construction claims. It is understood and agreed that any damages arising from carrying out, in any respect, the terms of this agreement or any modification thereof, shall be solely the liability of the City and that the City hereby agrees to save and hold harmless and indemnify from loss the State, any of its departments, agencies, officers or employees from any and all cost and/or damage incurred by any of the above and from any other damage to any person or property whatsoever, which is caused by any activity, condition, or event arising out of the performance or nonperformance of any provisions of this agreement by the State, any of its departments, agencies, officers and employees, the City, any of its agents, officers and employees, or any of its independent contractors. Costs incurred by the State, any of its departments, agencies, officers or employees shall include in the event of any action, court costs, expenses of litigation or attorneys' fees.

2. This agreement shall remain in force and effect until completion of the work and related deposits or reimbursements.

3. This agreement shall become effective upon filing with the Secretary of State.

4. This agreement may be cancelled in accordance with Arizona Revised Statutes Section 38-511.

5. The provisions of Arizona Revised Statutes Section 35-214 are applicable to this contract.

6. In the event of any controversy which may arise out of this agreement, the parties hereto agree to abide by required arbitration as is set forth for public works contracts in Arizona Revised Statutes Section 12-1518.

7. All notices or demands upon any party to this agreement shall be in writing and shall be delivered in person or sent by mail addressed as follows:

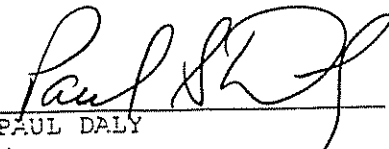
Arizona Department of Transportation
Joint Project Administration
205 South 17 Avenue, Mail Drop 616E
Phoenix, AZ 85007

City of Prescott
Public Works Director
PO Box 2059
Prescott, AZ 86302-2059

8. Attached hereto and incorporated herein is the written determination of each party's legal counsel that the parties are authorized under the laws of this state to enter into this agreement and that the agreement is in proper form.

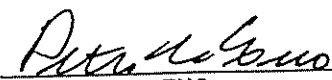
IN WITNESS WHEREOF, the parties have executed this agreement the day and year first above written.

CITY OF PRESCOTT, ARIZONA

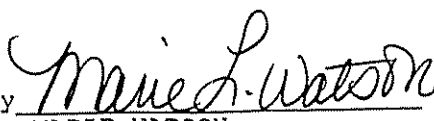
By 
PAUL DALY
Mayor

STATE OF ARIZONA

Department of Transportation

By 
PETER L. ENO
Contract Administrator

ATTEST

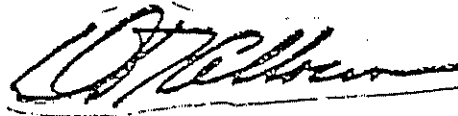
By 
MARIE WATSON
City Clerk

11feb

RESOLUTION

BE IT RESOLVED on this 11 day of February 1999, that I, the undersigned MARY E. PETERS, as Director of the Arizona Department of Transportation, have determined that it is in the best interests of the State of Arizona that the Department of Transportation, acting by and through the Intermodal Transportation Division, to enter into an agreement with the City of Prescott for the purpose of defining responsibilities for construction of the replacement of Willow Creek Bridge in the City.

Therefore, authorization is hereby granted to draft said agreement which, upon completion, shall be submitted to the Contract Administrator for approval and execution.

A handwritten signature in black ink, appearing to read "D. Allocco", written over a horizontal line.

DAVID R. ALLOCCO, P.E.
Assistant State Engineer
Engineering Technical Group
for Mary E. Peters, Director

APPROVAL OF THE PRESCOTT CITY ATTORNEY

I have reviewed the above referenced proposed intergovernmental agreement, between the DEPARTMENT OF TRANSPORTATION, HIGHWAYS DIVISION, and the CITY OF PRESCOTT and declare this agreement to be in proper form and within the powers and authority granted to the City under the laws of the State of Arizona.

DATED this 20th day of FEB, 1999.



City Attorney

RESOLUTION NO. 3159

A RESOLUTION OF THE MAYOR AND COUNCIL OF THE CITY OF PRESCOTT, YAVAPAI COUNTY, AUTHORIZING THE CITY OF PRESCOTT TO ENTER INTO AN INTERGOVERNMENTAL AGREEMENT WITH THE ARIZONA DEPARTMENT OF TRANSPORTATION FOR THE PARTIAL FUNDING OF THE WILLOW CREEK ROAD BRIDGE AND INTERSECTION RECONSTRUCTION, AND AUTHORIZING THE MAYOR AND STAFF TO TAKE ANY AND ALL STEPS NECESSARY TO ACCOMPLISH THE ABOVE.

WHEREAS, the Arizona Department of Transportation is willing to partially fund the reconstruction of the Willow Creek Road Bridge and intersection; and


WHEREAS, the parties wish to enter into an Intergovernmental Agreement to provide for certain terms and conditions relative to the foregoing funding.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND COUNCIL OF THE CITY OF PRESCOTT AS FOLLOWS:

SECTION 1. THAT, the City of Prescott hereby approves the Intergovernmental Agreement with the Arizona Department of Transportation to partially fund the reconstruction of the Willow Creek Road Bridge and intersection, attached hereto as Exhibit "A".

SECTION 2. THAT, the Mayor and Staff are hereby authorized to execute the attached Intergovernmental Agreement and to take any and all steps deemed necessary to accomplish the above.

PASSED, APPROVED AND ADOPTED by the Mayor and Council of the City of Prescott, Arizona, on this 9th day of MARCH, 1999.



PAUL S. DALY, Mayor

ATTEST:



MARIE L WATSON, City Clerk

APPROVED AS TO FORM:



JOHN R MOFFITT, City Attorney



STATE OF ARIZONA

OFFICE OF THE ATTORNEY GENERAL

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ATTORNEY GENERAL

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INTERGOVERNMENTAL AGREEMENT
DETERMINATION

A.G. Contract No. KR99-0275TRN, an agreement between public agencies, has been reviewed pursuant to A.R.S. § 11-952, as amended, by the undersigned Assistant Attorney General who has determined that it is in the proper form and is within the powers and authority granted to the State of Arizona.

No opinion is expressed as to the authority of the remaining parties, other than the State or its agencies, to enter into said agreement.

DATED March 17, 1999.

JANET NAPOLITANO
Attorney General

A handwritten signature in cursive script, reading "James R. Redpath", is written over a horizontal line.

JAMES R. REDPATH
Assistant Attorney General
Transportation Section

JRR:et/19892

Enc.